

Application No. 10/522,612  
Amendment dated April 3, 2007  
Reply to Office Action of January 30, 2007

## REMARKS

In the January 30, 2007 Office Action, claims 1-19 were rejected in view of prior art.

No other objections or rejections were made in the Office Action.

### *Status of Claims and Amendments*

Applicants have amended independent claims 1, 11 and 12, and 19 as indicated above, and cancelled claim 7. Thus, claims 1-6 and 8-19 are pending, with claims 1, 11, 12 and 19 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

### *Rejections - 35 U.S.C. § 103*

In the Office Action, claims 1-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over the prior art of record. More specifically, in paragraphs 1 and 2 of the Office Action, claims 1-2, 7-8, 10-12 and 19 were rejected as being unpatentable over JP 4-072160 to (hereinafter the '160 reference). In paragraphs 3-6 of the Office Action, dependent claims 3-6 were rejected as being unpatentable over the '160 reference in view of US Patent 5,546,733 to Paltrineri (hereinafter the '733 patent), dependent claim 9 was rejected as being unpatentable over the '160 reference in view of US Patent 6,729,108 to Tsuruta, and dependent claims 13-18 were rejected as being unpatentable over the '160 reference in view of US Patent 6,843,037 to Nolfi, Jr. (hereinafter the '037 patent).

In response, Applicants have amended independent claims 1, 11, 12 and 19 to clearly define the present invention over the prior art of record.

In particular, independent claims 1, 11, 12 and 19 have been amended to make clear that the thickness of the sealed package containing the article and the gas is to be adjusted based upon the difference between the temperature of the outside air and the temperature of

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the gas, and ***the amount of gas supplied to the package.*** Support for this amendment can be found throughout the specification, and does not constitute new matter.

As noted by the Examiner, the '160 reference simply discloses that the temperature of the inert gas is lower than the ambient temperature and, after sealing, the gas is raised in temperature due to the difference between the inside and outside temperatures and expanded to increase the thickness of the sealed package. Applicants respectfully submit that the '160 reference fails to disclose that the adjustment in the thickness of the sealed package is performed based upon ***both*** the ***temperature*** of the gas and the ***amount*** of the gas supplied to the package.

Furthermore, with regard to the assertion made in the Office Action that "the provision of adjustability, where needed, involve only routine skill in the art" (citing *In re Stevens*, 101 USPQ 248 (CCPA 1954)), the Applicants respectfully disagree. The Examiner appears to cite *In re Stevens* for the proposition that the provision of adjustability can never be a patentable feature of an invention. However, even a casual examination of issued US patents indicate that this is simply not the case, and thus the Examiner appears to be interpreting *In re Stevens* far too broadly. The Applicants respectfully assert that adjustability can in fact be a patentable feature of an invention when the structure or method which provides the invention with adjustability is neither disclosed nor suggested in the prior art.

Therefore, Applicants respectfully submit that independent claims 1, 11, 12, and 19, as now amended, are not disclosed or suggested by the prior art of record. Withdrawal of this rejection is respectfully requested.

With regard to rejected dependent claims 2, 8 and 10, Applicants believe that these claims are also allowable over the prior art of record in that they depend from independent

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claim 1 and therefore are allowable for the reasons stated above. In addition, these dependent claims are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest independent claim 1, neither does the prior art disclose or suggest these dependent claims.

Regarding dependent claims 3-6, 9 and 13-18, Applicants believe that claims depending therefrom are also allowable over the prior art of record in view of the arguments advance above with regard to independent claims 1 and 12. In addition, these dependent claims are further allowable because they include additional limitations. Thus, Applicants believe that since the prior art of record does not disclose or suggest the invention as set forth in independent claims 1 and 12, the prior art of record also fails to disclose or suggest the inventions as set forth in the dependent claims.

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In view of the foregoing amendment and comments, Applicants respectfully assert that pending claims are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

  
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